

<p>Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address</p> <p>Law Offices of John Asuncion John Asuncion, SBN.165406 4311 Wilshire Blvd., Ste. 602 Los Angeles, CA 90010 Tel: (323)549-3933 Fax: (323)954-4334 e-mail:johnasuncionesq@sbcglobal.net</p> <p><input type="checkbox"/> Debtor(s) appearing without attorney <input checked="" type="checkbox"/> Attorney for: DEBTOR</p>	<p>FOR COURT USE ONLY</p> <div data-bbox="1047 262 1432 535"><p>FILED & ENTERED</p><p>NOV 09 2017</p><p>CLERK U.S. BANKRUPTCY COURT Central District of California BY tatum DEPUTY CLERK</p></div> <p>CHANGES MADE BY COURT</p>
<p><u>NOT FOR PUBLICATION</u></p> <p>UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA -<u>LOS ANGELES</u> DIVISION</p>	
<p>In re:</p> <p>Ronald J. Holloway</p> <p>Debtor(s).</p>	<p>CASE NO.: 2:17-bk-16604-RK CHAPTER: 7</p> <p>ORDER: <input type="checkbox"/> GRANTING <input checked="" type="checkbox"/> DENYING MOTION TO AVOID LIEN UNDER 11 U.S.C. § 522(f) AND, IF APPLICABLE, FOR TURNOVER OF PERSONAL PROPERTY</p> <p><input checked="" type="checkbox"/> No hearing held <input type="checkbox"/> Hearing held</p> <p>DATE: TIME: COURTROOM: ADDRESS:</p>
<p>Creditor Holding Lien to be Avoided (name): MCT Group</p>	

The Motion was: ☐ Opposed ☒ Unopposed ☐ Settled by stipulation

Pursuant to 11 U.S.C. § 522(f) and LBR 9013-1(o), Debtor moved to avoid lien(s) on personal property claimed to be exempt, with respect to creditor. The court finds and orders as follows:

1. ☐ Notice of this motion complied with LBR 9013-1(d).
2. ☒ Notice of this Motion complied with LBR 9013-1(o).
 - a. ☒ There was no opposition and request for hearing.

b. ☐ Hearing requested and held as indicated in the caption.

3. Motion granted:

- a. ☐ The lien(s) sought to be avoided are non-purchase money security interests in one or more of the types of personal property listed in 11 U.S.C. § 522(f)(1)(B)(i), (ii), or (iii) and the fixing of those lien(s) impairs the Debtor's exemptions as set forth in the Motion.
- b. ☐ The lien(s) sought to be avoided are judicial liens, other than a judicial lien that secures a debt of a kind that is specified in section 523(a)(5) (domestic support obligations), and the fixing of those lien(s) impairs the Debtor's exemptions as set forth in the Motion.

4. Unless otherwise ordered, any claim(s) that were secured by the avoided lien(s) are to be treated as general unsecured claim(s) and are to be paid pro rata with all other unsecured claims.

5. Motion denied on the following grounds: ☐ With Prejudice ☒ Without Prejudice

a. ☒ Insufficient notice

As indicated on the abstract of judgment, the named lienholder is MCT Group. Debtor's lien avoidance motion under 11 U.S.C. 522(f) is a contested matter under Fed. R. Bankr. P. 9014. The proof of service of the motion indicates that Debtor served "MCT Group, P. O. Box 7748, Torrance, CA 90504." Debtor's service of the motion on the lienholder at that address is insufficient because (1) Debtor has not shown that the address is a current and accurate address for the lienholder as the California Secretary of State's website currently has different addresses for the lienholder (MCT Group, Inc., 2309 W. 190th St., Redondo Beach, CA 90278; and Aimee R. Morris, Agent for Service of Process on MCT Group, Inc., 7588 Hillmont Drive, Oakland, CA 94605; and (2) service was not addressed to an officer or agent for service of process of the lienholder, a domestic corporation, pursuant to Fed. R. Bankr. P. 7004(b)(3) and 9014.

- b. ☐ Failure to comply with FRBP 7004(b)(3) and Calif. Code of Civil Procedure § 416.10 for corporations
- c. ☐ Failure to comply with FRBP 7004(h).
- d. ☐ Insufficient evidence of the exempt status of the property in question
- e. ☐ Other (*specify*):

6. a. ☐ Turnover of the personal property is required under 11 U.S.C. §§ 542 or 543.

b. ☐ The court further orders as follows (*specify*):

The court grants leave to Movant to file an amended motion to avoid lien which corrects these deficiencies within 60 days of entry of this order.

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Date: November 9, 2017



Robert Kwan
United States Bankruptcy Judge